

### REMARKS

With the above amendments, claims 4-16 remain in the application. Claims 1-3 have been canceled without prejudice. Claim 8 has been amended. No new matter is being added.

#### Allowed/Allowable Claims

Applicant thanks the Examiner for allowing claims 4-7. As discussed by the Examiner in the last office action, "The prior art fails to teach a combination of all the claimed features as presented in claim(s) 4-7, wherein the claimed invention comprises a released membrane portion surrounding the circular optically active portion, wherein: the **substantially circular** optically active includes a plurality of gaps configured to expose a lower surface, as claimed." (Emphasis added.)

#### Claim Rejections--35 USC 103

Claims 8-16 stand rejected as unpatentable over Maheshwari in view of Hornbeck. This rejection is hereby traversed with respect to the claims as now amended.

Claim 8 is hereby amended so as to insert a patentable limitation from allowed claim 4. In particular, claim 8 as amended now recites as follows.

Claim 8: A micro electromechanical system (MEMS) device capable of light modulation, the device comprising:

- a membrane configured to be controllably deflected;
- a support structure configured to support the membrane;
- a **substantially circular** optically-active portion of the membrane that is reflective and configured to be illuminated;
- a non-optically-active portion of the membrane between the optically-active portion and the support structure; and
- a plurality of gaps in the optically-active portion of the membrane.

(Emphasis added.)

As recited above, claim 8 now recites that the optically-active portion of the membrane is substantially circular. Hence, applicants respectfully submit that claim 8 is now patentable over the prior art for at least the reasons indicated by the Examiner in the allowance of claims 4-7.

Claims 9-16 depend from independent claim 8. As such, applicants respectfully submit that claims 9-16 are patentable over the cited art for at least the reasons given above in regards to claim 8.

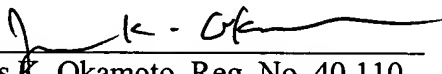
Conclusion

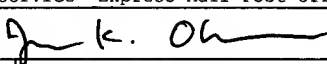
For at least the above reasons, it is respectfully submitted that claims 4-16 are now in condition for allowance. The Examiner is invited to telephone the undersigned at (408)436-2112 for any questions.

The Examiner is invited to call the undersigned for any questions. Favorable action is respectfully solicited.

Respectfully submitted,  
Alexander P. Payne, et al.

Dated: December 5, 2005

  
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